

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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ANDREA MORIN,

Plaintiff,

-against-

FORDHAM UNIVERSITY,

Defendant.

7:21-CV-07909 (NSR)

ORDER OF DISMISSAL

NELSON S. ROMÁN, United States District Judge

On or about September 22, 2021, Plaintiff Andrea Morin commenced this action against Defendants Fordham University (“Fordham”), Howard Robinson, and Mary Ann Forgey alleging (1) sexual harassment and retaliation in violation of the Education Amendments of 1972, 20 U.S.C. Section 1681 (“Title IX”); (2) hostile educational environment in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000e, et seq. (“Title VII”); and (3) intentional infliction of emotional distress under New York state law. (Complaint, “Compl.,” ECF No. 8.) On February 4, 2022, Defendants Fordham and Forgey submitted a joint motion to dismiss, and Defendant Robinson filed an individual motion to dismiss. (ECF Nos. 48 and 51.)

The Court granted in part, and denied in part, Defendants’ motion to dismiss (ECF No. 55.) Specifically, the Court dismissed the following claims without prejudice: (1) Title IX sexual harassment against Defendant Fordham; (2) Title VII hostile environment against Defendant Fordham; (3) IIED against Defendant Robinson; (4) Section 1983 against Defendant Robinson; (5) IIED against Defendant Forgey; and (6) Section 1983 against Defendant Forgey. (ECF No. 55.) The Court also ordered that Plaintiff had until October 28, 2022 to file an amended complaint and noted that in the event Plaintiff failed to timely file an amended complaint, the

original complaint would remain the operative complaint and those claims dismissed without prejudice would be deemed dismissed with prejudice. (*Id.*)

On October 28, 2022, the Court granted Plaintiff's request to file an amended complaint by December 2, 2022. Plaintiff, however, failed to file an amended complaint by December 2, 2022 and, on December 22, 2022, Defendant Fordham filed a Verified Answer. (ECF No. 58.) Therefore, on March 7, 2023, the Court dismissed Plaintiff's claims with prejudice that were formerly dismissed without prejudice, and accordingly, ordered the Clerk of the Court to terminate the action as to Defendants Robinson and Forgey. The Court directed the remaining parties, Plaintiff and Defendant Fordham, to submit a joint Proposed Case Management Plan and Scheduling Order ("CMP") by March 28, 2023. (ECF Nos. 59 and 60.)

However, after multiple extensions of the CMP deadline, Anthony J. Siano filed what the Court construed as a notice of motion to withdraw as attorney for Plaintiff. (ECF No. 68.) Although the Court set a briefing schedule for Mr. Siano's motion, Plaintiff failed to respond per the Court's instructions. (ECF No. 71.) As a result, on March 10, 2023, the Court granted Mr. Siano's motion to withdraw as attorney for Plaintiff and directed him to serve a copy of the Court's order on Plaintiff as well as file proof of service on ECF. (ECF No. 75.) Proof of service was filed that same day. (ECF No. 76.)

As part of its March 10, 2023 order, the Court also stayed this action for 30 days and directed Plaintiff to file a Notice of *Pro Se* Appearance, should she not obtain new counsel, by June 9, 2023. (ECF No. 75.) As of the date of this Order, no attorney for Plaintiff has filed a Notice of Appearance and Plaintiff has failed to file a Notice of *Pro Se* Appearance on her own behalf.

On August 2, 2023, this Court ordered Plaintiff to “show cause in writing on or before September 15, 2023 why this action should not be dismissed without prejudice for want of prosecution pursuant to Fed. R. Civ. P. 41(b).” (ECF No. 77.) The Court informed Plaintiff that “[f]ailure to comply with this Court’s present order will result in dismissal of this case for want of prosecution.” (*Id.*) On August 3, 2023, Defendant Fordham filed proof of service and mailed a copy of the Order to Show Cause to Plaintiff, which was delivered on August 5, 2023. (ECF Nos. 78 and 79.) On October 10, 2023, Defendant Fordham requested via letter that the Court dismiss the action for want of prosecution because Plaintiff had not responded to the Court’s Order to Show Cause. (ECF No. 79.) As of the date of this Order, Plaintiff still has not complied with the Court’s Order to Show Cause.

Accordingly, it is hereby ORDERED that Plaintiff’s claims be dismissed without prejudice for want of prosecution. Defendant Fordham is directed to mail a copy of this Order to Plaintiff at Plaintiff’s last known address and to file proof of service on the docket. The Clerk of the Court is respectfully directed to terminate this action.

SO ORDERED.

Dated: October 13, 2023
White Plains, New York



NELSON S. ROMÁN
United States District Judge